

SENATE BILL 2267

By Kyle

AN ACT relative to solid waste management and to amend  
Title 68, Chapter 211, and Title 67, Chapter 4, Part  
16 of the Tennessee Code

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

Section 1. Tennessee Code Annotated, Subsection 68-211-813(c) is amended by deleting the language, “a twenty-five percent (25%) waste reduction goal in accordance with” and substituting instead the language “compliance with the waste reduction and recycling goal required by”.

Section 2. Tennessee Code Annotated, Subsection 68-211-815(b) is amended by deleting the existing subdivision (b)(10) and substituting instead the following:

(10) A description of waste reduction and recycling activities designed to attain the goal required by §68-211-861;

Section 3. Tennessee Code Annotated, Subsection 68-211-815(b) is amended by deleting the “and” at the end of subdivision (15), adding the following as a new subdivision (16), and renumbering the existing subdivision (16):

(16) A plan for managing solid waste generated as a result of disasters or emergencies; and

Section 4. Tennessee Code Annotated Section 68-211-816 is amended by deleting from subdivision (a)(1) the language, “and on written notice from the commissioner”.

Section 5. Tennessee Code Annotated Subsection 68-211-816(a) is amended by deleting subdivisions (2) and (3) in their entirety and substituting instead the following:

(2) Any such noncompliance shall be resolved as soon as possible. If noncompliance continues for thirty (30) days after receipt of the warning letter,

the noncomplying county or region shall lose eligibility for funds from the solid waste management fund, unless the commissioner states in writing that due to particular circumstances a longer time is appropriate.

(3) If noncompliance continues for sixty (60) days after receipt of the warning letter, then, in addition to any other penalty imposed by law, the commissioner may impose a civil penalty of not more than five thousand dollars (\$5,000) for each day of noncompliance beyond such sixty-day (60) period.

Section 6. Tennessee Code Annotated Subsection 68-211-816(c) is amended by deleting the reference to “§68-211-867(a)” and substituting instead “§68-211-867(d)”.

Section 7. Tennessee Code Annotated Section 68-211-821 is amended by deleting the last sentence of subsection (b) including subdivisions (1) and (2) in its entirety.

Section 8. Tennessee Code Annotated Section 68-211-826(a) is amended by deleting the language, “economic and community development” and substituting instead, “environment and conservation”.

Section 9. Tennessee Code Annotated Section 68-211-828 is amended by deleting it and substituting instead the following:

From funds available from the solid waste management fund, the department shall award competitive grants for collection of household hazardous waste at a permanent site to municipalities with a population of one hundred thousand (100,000) or more in counties with a population of two hundred eighty-seven thousand seven hundred (287,700) or more according to the 1980 federal census or any subsequent federal census and to the municipalities or counties that are determined by the department to be the next largest in terms of population and/or level of participation in mobile household hazardous waste

collection events. An eligible municipality or county may only receive one (1) grant for the establishment of a permanent household hazardous waste collection site; however, if funds are available from the solid waste management fund, the department may award a municipality or county that has established a permanent household hazardous waste collection site annual grants to assist the municipality or county in maintaining and/or operating the permanent household hazardous waste collection site. A municipality or county that receives a grant pursuant to this section shall allow all residents of the county in which the site is located to use the site on the same basis. The mobile household hazardous waste collection service authorized by §68-211-829 shall not be provided in a county in which there is a permanent household hazardous waste collection site that was funded through a grant pursuant to this section.

Section 10. Tennessee Code Annotated, Title 68, Chapter 211, Part 8 is amended by adding the following new section:

§68-211-832. Grants for corrective action at closed permitted landfills.

From funds available in the Solid Waste Management Fund, the department may award grants to counties or municipalities that operated class I landfills, which were permitted by the department, are now closed, and do not have a composite liner system in place, for the purpose of investigation or corrective action at such landfills, if they have been determined by the department to be causing harm to health or the environment through contamination of ground water. The amount of such grants shall be set at such amount that it will reimburse the local government for not more than 50% of the expenses of investigation and corrective action of such ground water contamination. The solid waste disposal

control board may promulgate such rules as it deems necessary or appropriate to effectuate this grant program.

Section 11. Tennessee Code Annotated, Title 68, Chapter 211, Part 8 is amended by adding the following new section:

§68-211-833. Hazardous Chemicals in Schools. Funds available in the Solid Waste Management Fund may be used by the department to provide for the proper disposal of hazardous waste or other materials, deemed by the department to pose a hazard to students or the environment, in public K-12 schools.

Section 12. Tennessee Code Annotated Section 68-211-835 is amended by deleting subsection (d)(1) in its entirety and substituting instead the following:

(d)(1) In addition to any tipping fee imposed by any local government under this section, there shall also be imposed a surcharge on each ton of municipal solid waste received at all Class I solid waste disposal facilities or incinerators. The amount of this surcharge is to be established by a rule to be promulgated by the Solid Waste Disposal Control Board created under T.C.A. §68-211-111.

Section 13. Tennessee Code Annotated Section 68-211-861 is amended by deleting in subsection (a) the language, “, by December 31, 2003” and by adding the following, appropriately designated subsection:

( ) The General assembly recognizes that the ways in which solid waste is generated and managed are very dynamic. The opportunities for recycling and for reduction of waste generated change with both market factors and technological developments. These in turn, affect the costs of solid waste management and recycling. Also there are many factors that change the

feasibility of different approaches among the counties, in addition to population and amount of commercial and industrial activity, these include proximity to markets for recyclable materials and the solid waste activities of municipalities. In order to better address all of these changing circumstances, the solid waste disposal control board is authorized to adopt a rule promoting recycling and waste reduction. In so doing, the board shall consider the use of incentives, disincentives, public education, costs and benefits of recycling, and the widely varying circumstances of the different solid waste regions. Upon the effective date of such rule, the provisions of subsection (a) through (f) of this section, 68-211-861, will be repealed and of no further force and effect and the rule will be enforceable according to its terms and in accordance with section 68-211-816.

Section 14. Tennessee Code Annotated Section 68-211-865 is amended by deleting it and substituting instead the following:

§68-211-865. Additional duties.

(a) The department of general services shall

(1) Recycle surplus state property to the maximum extent practicable, under the program authorized by this part and under §12-2-404, which cannot be sold for reuse, notwithstanding the existence of any other provision of law, rules or regulations to the contrary;

(2) Revise product specifications to require, to the extent economically feasible, the procurement of recycled products or products with recycled content;

(3) Encourage all departments of state government to purchase products with recycled content or recyclable products from state contracts;

(4) Encourage county governments to purchase materials with recycled content from state contracts in transactions under title 12, chapter 3, part 10; and

(5) Effect procurement contracts which are subject to competitive bidding using specifications revised according to subdivision (6).

(b) The department of environment and conservation shall:

(1) Expand to the maximum extent practicable the department's demonstration state office recycling program for paper, aluminum cans and bottles;

(2) Expand such program to the maximum extent practicable to include other kinds of recyclable materials, including, but not limited to, newsprint, plastic bottles, mixed paper and steel cans; and

(3) Demonstrate new uses of recovered materials;

Section 15. Tennessee Code Annotated Subsection 68-211-867(c) is amended by deleting subdivision (1) and renumbering the remaining subdivisions of subsection 68-211-867(c).

Section 16. Tennessee Code Annotated Subsection 68-211-871(a) is amended by deleting the language "March 1" and substituting instead, "March 31".

Section 17. Tennessee Code Annotated Title 67, Chapter 4, Part 16 is amended by deleting it in its entirety.

Section 18. Tennessee Code Annotated, Title 68, Chapter 211 is amended by adding sections 19 through 29 as appropriately designated sections in a new, appropriately designated Part.

Section 19. Definitions. As used in this part, unless the context otherwise requires:

(a) "Commissioner" means the commissioner of revenue;

(b) "Dealer" means every person engaged in the sale of new tires in this state, including persons making sales by mail or common carrier into Tennessee and having a constitutional nexus with Tennessee for sales tax purposes;

(c) "Department" means the department of revenue;

(d) "Motor vehicle" means any vehicle used in the transportation of persons or property on streets or highways, including automobiles, motorcycles, trucks, trailers, semi-trailers and truck/semi-trailer combinations, and also including farm tractors, trailers and machinery, but not including vehicles propelled solely by human muscular power, such as bicycles;

(e) "New tire" means a tire which has not previously been used in the regular operation of a motor vehicle and does not include a tire which has been recapped or retreaded;

(f) "Retail sale" means every sale of new tires for any purpose other than resale;

(g) "Sale" means any transfer of title or possession, or both, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever of new tires, but does not include the sale of new tires as a component part of a new or used motor vehicle;

(h) "Sale for resale" means every sale for purpose of resale and not for use and consumption and which is properly supported by a sales tax resale certificate; and

(i) "Tire" means a continuous solid or pneumatic rubber covering encircling the wheel of a motor vehicle.

Section 20. Tire Pre-Disposal Fee. (a) A pre-disposal fee is imposed on each dealer making retail sales of new tires in this state in order to provide funding for the solid waste management fund created by T.C.A. §68-211-821. The amount of this fee is to be established

by a rule to be promulgated by the Solid Waste Disposal Control Board created under T.C.A. §68-211-111.

(b) A dealer who is subject to and pays this fee is not liable for the fee for tires sold for delivery outside of this state.

(c) All such funds shall be collected by the department and deposited into the solid waste management fund created by T.C.A. §68-211-821.

Section 21. Surcharges. Notwithstanding any provision of title 5, a county may not impose any special disposal fee or surcharge on tires in addition to the fee imposed by section 20. Tires shall be subject to the same tipping fee and other surcharges authorized by §68-211-835 as are imposed on other wastes.

Section 22. Registration of retailers; tire shredder credits. Every person desiring to engage in the retail sale of new tires shall register for each place of business with the commissioner upon forms prescribed and furnished by the commissioner.

Section 23. Quarterly returns and payments. (a) The fee imposed by this part shall be payable for quarterly periods as follows:

- (1) January 1 through March 31;
- (2) April 1 through June 30;
- (3) July 1 through September 30; and
- (4) October 1 through December 31.

(b) It is the duty of all dealers on or before the twenty-fifth day of the month immediately following the close of the periods set out above to transmit to the commissioner, upon forms prescribed and furnished by the commissioner, returns showing the gross number of new tires sold at retail during the preceding quarter. A separate return shall be filed for each separate location or place of business.



(c) The return shall be accompanied by payment of all fees due.

(d) Failure to file a return and/or pay the fee due under this part prior to the date provided by this section shall cause the fee to become delinquent and subject to interest and penalties as provided in chapter 1, part 8 of title 67.

Section 24. Returned tire credits. Each dealer shall be allowed a credit against the fee for tires which are returned and the purchase price fully refunded; provided, that the fee imposed by this part was previously remitted on the sale.

Section 25. Tires for dealers own use. Any dealer purchasing new tires for resale without the payment of the fee, and subsequently withdrawing the tires from inventory for such dealer's own use and consumption, must remit the fee on the tires on such dealer's own return.

Section 26. Leasing companies. A motor vehicle leasing company, when purchasing new tires for resale in the form of a lease, must remit the fee on the tires when the tires are first put to use in this state.

Section 27. Deduction for accounting and remittance. For the purpose of compensating the dealer in accounting for and remitting the fee, a dealer shall be allowed a deduction of the fee due, reported and paid to the department in the amount of ten percent (10%) of the amount due on the report. No deduction from the fee shall be allowed if any such report or payment of the surcharge is delinquent.

Section 28. Severability. If any provision of this part or the application of this part to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the part which can be given effect without the invalid provision or application, and to that end the provisions of this part are declared to be severable.

Section 29. Promulgation of rules. The commissioner is authorized to promulgate rules in regard to the collection of the fee provided by this part, with the exception of the setting of the

amount of the fee under section 20. All such rules shall be promulgated in accordance with the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

Section 30. This Act shall take effect on July 1, 2007, except that sections 12 and 17 through 29, shall take effect only for purposes of rulemaking at that time and section 12 shall take effect for all purposes upon the date the rules provided for in section 12 are effective and sections 17 through 29 shall take effect for all purposes upon the date the rules provided for in section 20 are effective, the public welfare requiring it.